



U.S. Department of Justice

United States Attorney  
Southern District of New York


86 Chambers Street  
New York, New York 10007

August 21, 2020

Via ECF

Honorable Lewis J. Liman  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**MEMORANDUM ENDORSED**

  
LEWIS J. LIMAN  
United States District Judge

August 24, 2020

Re: *National Audubon Society v. Bernhardt et al.*, 20 Civ. 5065 (LJL)

Dear Judge Liman:

This Office represents defendants David Bernhardt, Aurelia Skipwith, the U.S. Department of the Interior, and the U.S. Fish and Wildlife Service (collectively, “Defendants”) in this matter brought by plaintiff National Audubon Society (“Plaintiff”) under the Administrative Procedure Act and the National Environmental Policy Act.

I write respectfully pursuant to the Court’s order dated August 13, 2020, Dkt. No. 27, to propose a schedule for further proceedings in this matter. Plaintiff joins in this proposal.

Defendants propose the following schedule and page limitations, pursuant to Rules 2(H) and (J) of Your Honor’s individual practices:

- **October 2, 2020:** Defendants’ motion to dismiss and brief in support of its motion. This brief shall be limited to 25 pages.
- **November 6, 2020:** Plaintiff’s combined brief in opposition to Defendants’ motion to dismiss and in support of their cross-motion for summary judgment as to Plaintiff’s first, third, and fourth causes of action, which Plaintiff asserts can be resolved without reference to the administrative record. (Defendants reserve the right to challenge this assertion.) This brief shall be limited to 40 pages.
- **December 11, 2020:** Defendants’ combined brief in opposition to Plaintiff’s motion for summary judgment and in further support of their motion to dismiss. This brief shall be limited to 30 pages.
- **January 15, 2021:** Plaintiff’s reply brief in further support of its motion for summary judgment. This brief shall be limited to 15 pages.

If the action is not resolved through the Court’s ruling on this set of cross-motions, Defendants would file an answer as to any claims remaining in the action and produce the administrative record, and the parties would then brief any remaining issues.

The parties thank the Court for its consideration of this matter.

Respectfully submitted,

AUDREY STRAUSS  
Acting United States Attorney for the  
Southern District of New York

By: /s/ Samuel Dolinger  
SAMUEL DOLINGER  
Assistant United States Attorney  
86 Chambers Street, 3rd Floor  
New York, New York 10007  
Tel.: (212) 637-2677  
E-mail: samuel.dolinger@usdoj.gov

cc: Counsel of record (via ECF)